

SURFACE TRANSPORTATION BOARD

Docket No. EP 290 (Sub-No. 5)

QUARTERLY RAIL COST ADJUSTMENT FACTOR

Decided: March 18, 2019

In Railroad Cost Recovery Procedures, 1 I.C.C.2d 207 (1984), the Interstate Commerce Commission (ICC) outlined the procedures for calculating the all-inclusive index of railroad input prices and the method for computing the rail cost adjustment factor (RCAF). Under the procedures, the Association of American Railroads (AAR) is required to calculate the index on a quarterly basis and submit it to the agency on the fifth day of the last month of each calendar quarter. In Railroad Cost Recovery Procedures—Productivity Adjustment, 5 I.C.C.2d 434 (1989), aff'd sub nom. Edison Electric Institute v. ICC, 969 F.2d 1221 (D.C. Cir. 1992), the ICC adopted procedures that require the adjustment of the quarterly index for a measure of productivity. The provisions of 49 U.S.C. § 10708 direct the Surface Transportation Board (Board) to continue to publish both an unadjusted RCAF and a productivity-adjusted RCAF on a quarterly basis. Under 49 C.F.R. § 1135.1, the Board is required to make its RCAF publication by, as relevant here, the twentieth of March.

On March 5, 2019, AAR submitted its quarterly filing. AAR was unable to use an updated productivity figure in its calculations because, at the time of AAR's filing, the Board had not yet issued the productivity change for 2017 and for the 2013-2017 averaging period.¹ Accordingly, AAR used last year's productivity figures in its filing and noted in its pleadings and workpapers that it had done so.

Shortly after AAR's filing in this docket, on March 11, 2019, the Board proposed to adopt 1.005 (0.5% per year) as the measure of average (geometric mean) change in railroad productivity for the 2013-2017 (five-year) period. This represents an increase of 0.9% from the average for the 2012-2016 period. Railroad Cost Recovery Procedures—Productivity Adjustment, EP 290 (Sub-No. 4) (STB served Mar. 11, 2019).

On March 18, 2019, Timothy D. Crowley, Executive Vice President of L.E. Peabody & Associates, Inc., submitted a comment in response to AAR's March 5, 2019 filing, in which he raises various concerns about the accuracy of AAR's calculations.

¹ By decision served March 4, 2019, the Board noted that it had not yet issued those figures and advised that AAR's quarterly filing should ensure that its methodology to account for that was clearly explained. Quarterly Rail Cost Adjustment Factor, EP 290 (Sub-No. 5) (STB served Mar. 4, 2019).

AAR will be directed to file a response addressing Mr. Crowley's comment. In the same filing, AAR is also directed to submit updated calculations reflecting the current productivity figure.

It is ordered:

1. AAR is directed to file a response addressing Mr. Crowley's comment by March 19, 2019.
2. In the same filing, AAR is directed to submit updated calculations with the current productivity figure.
3. This decision is effective on its date of service.

By the Board, Allison C. Davis, Acting Director, Office of Proceedings.